

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) No. 12133/2009 & CM No. 12321/2009**

Date of decision: 06th October, 2009

MAWANA SUGARS LIMITED

Through: Ms.Anuradha and Mr. Anish
Kapur, Advocates for the
Appellant.

VERSUS

THE COLLECTOR, DEPARTMENT OF TRADE & TAXES &
ANR.

Through: Mr. Rajesh Mahna, Advocate
for the Respondent No. 1.

CORAM:

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J U D G M E N T

A.K. SIKRI, J. (ORAL).

1. It is not necessary to take note of the facts and circumstances of the case in detail keeping in view the nature of the order which we propose to pass. The respondent No. 2 herein, namely, DCM Limited was the predecessor of the petitioner herein who was to pay certain sales tax dues which related to the period 1971-72 to 1975-76 for which notice of writ of demand dated 18th June, 2009, has been served upon the petitioner. On 16th April, 1990, a scheme for arrangement was approved by the Company Judge of this Court, pursuant to which respondent No. 2 was demerged into four companies, namely, DCM Limited (residuary

company, respondent No. 2), Shriram Industrial Enterprises Limited, the name of which is changed to Mawana Sugars Limited, (petitioner herein), DCM Shriram Industries Limited and DCM Industries Limited. The petitioner is willing to pay the legitimate dues of sales tax as payable by the erstwhile DCM. However, the grievance of the petitioner is that inspite of several demands made by the petitioner to respondent No. 1 requesting for production of relevant records of the assessment proceedings, the respondent No.1 has not acceded to the said request and on the other hand, insisted for making the payments by the petitioner. It is stated in the writ petition that the petitioner was able to locate a letter dated 22nd July, 1989, addressed by erstwhile DCM to its Advocate annexing copies of the remand orders for the assessment years 1971-72 to 1973-74, as per which sales tax demand had been substantially reduced, it is because of this reason to verify the genuineness of the demand raised vide notice of writ of demand dated 18th June, 2009, the petitioner is reverting respondent No. 1 for producing the relevant records and documents. It is submitted by the petitioner that while on the one hand, these details are not provided, on the other hand, the respondent No. 1 is contemplating to take coercive steps for the recovery of the demand.

2. Under these circumstances, apart from making a prayer for quashing of impugned notice dated 18th June, 2009, the petitioner has also made a prayer to direct respondent No. 1 to provide the relevant records including the assessment orders,

remand orders etc. to the petitioner and thereafter raise a fresh demand upon the petitioner as per the Demand Collection Register after taking into consideration the reliefs granted by way of the remand orders, monies already paid and setting aside of the refund due and after ascertaining the actual quantum of the demand attributable/allocable to the petitioner.

3. Having regard to the peculiar facts and circumstances of the case, particularly the fact when the assessment orders and remand orders are passed, it was the erstwhile DCM which demerged into four companies and the petitioner herein come into being as a demerged company only on 16th April, 2009 after the approval of a scheme of arrangement of this Court, we are of the opinion that the aforesaid request of the petitioner to respondent No. 1 to provide the aforesaid records appears to be reasonable and justified. We also find that the petitioner vide its communication dated 8th September, 2009, had offered to pay a sum of Rs.60,60,065/- to the respondent, being the demand as calculated by the petitioner on the basis of the scanty records available with him. Since this is the amount which is accepted by the petitioner, in any case, it would be proper for the petitioner to pay this amount to respondent No. 1 forthwith.

4. In these circumstances, we dispose of this writ petition with the following directions:-

(1) The petitioner is directed to pay a sum of Rs.60,60,065/- within two weeks from today.

(2) After making the aforesaid payment, the petitioner shall approach respondent No. 1 for supply of the records as demanded by the petitioner by means of various letters addressed to respondent No. 1 and respondent No. 1 shall provide those records. On the basis of those records, the demand is to be worked out again, this exercise shall be undertaken by the parties. Till that is done, respondent No. 1 shall not claim any further amounts.

(3) After calculating the fresh demand on the basis of the aforesaid document, if any further amount is found payable by the petitioner, then the same shall be paid by the petitioner within fifteen days of raising such demand. Likewise, in case any refund is due to the petitioner, the same shall be given back to the petitioner within fifteen days thereafter.

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5. With the dismissal of the petition itself, this application has become infructuous. Accordingly, the same is dismissed as having become infructuous.

**A.K. SIKRI
(JUDGE)**

**SIDDHARTH MRIDUL
(JUDGE)**

October 06, 2009/sb